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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,832	03/13/2004	Susan Lawrence	1341	8471
40313	7590	09/23/2005	EXAMINER	
DAVID J. ARCHER 7037 POMERY ROAD ROCKTON, IL 61072			AHMAD, NASSER	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,832

Applicant(s)

LAWRENCE, SUSAN

Examiner

Nasser Ahmad

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-13 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 8-9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pederson (2001/0003872).

Pederson relates to a tape device comprising a roll of tape having a first and second end, a first and second edge, and a first and second surface, a coating of releasable adhesive is disposed on one surface of the tape, and measuring indicia printed along the opposite surface tape (figures 1 and 3; and abstract). The tape is flexible and fabricated from paper (paragraph-[0028]).

The intended use phrase such as “for assisting”, “for permitting”, “to determine”, etc. have not been given any patentable weight because said phrases are not found to be of positive limitations.

3. Claims 1-3, 8-9 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Byne (3936944).

Byne relates to a tape device comprising a flexible roll of tape having releasable adhesive on one surface thereof and provided with printed indicia on the other surface.

The tape can have different widths, such as 3/8 inches

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pederson in view of Eggertsen (4351113).

Pederson, as discussed above, fails to teach that the tape is provided with a width of $\frac{3}{4}$ to 1 inch. Eggertsen disclose a measuring tape with adhesive on its back surface and printed measuring information on its front surface (see drawings). The tape is in a roll form and can be $\frac{3}{4}$ inches wide (col. 3, lines 67-68) to provide for facilitating storage and transportation. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Eggertsen's teaching of using $\frac{3}{4}$ inch wide tape in the invention of Pederson with the motivation to facilitate storage and transportation.

Regarding claims 5 and 6, it would have been obvious to optimize the tape width for facilitating storage.

As for claims 10 and 11, it is conventional and well known in the measuring tape art to provide measuring indicia in inches and centimeters along opposite edges.

Allowable Subject Matter

6. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The prior art fails to teach releasable adhesive on both first and second surfaces of the tape as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
September 19, 2005.